REMARKS

The last Office Action has been carefully considered.

It is noted that claims 1-6 are rejected under 35 U.S.C. 102 (b) over the patents to Davankov, et al or Braverman, et al.

Also, the claims are rejected under 35 U.S.C. 112.

Finally, the Examiner required to clarify the post office addresses of the inventors.

In connection with the Examiner's formal objections and rejections, applicants have respectfully submitted that the formal addresses of the inventors with zip code designations are presented in the Declaration. In particular, for Mr. Davankov the zip code is 125445 in Moscow, Russia, for Mr. Brady it is 10471 in Riverdale, New York USA, for Mrs. Palova it is 103064 in Moscow, Russia and for Mrs. Tsurupa it is 109072 in Moscow Russia. These zip codes were presented in the original application.

In connection with the Examiner's formal rejection of the claims, applicant has amended the claims as required by the Examiner.

In connection with the Examiner's grounds for the rejection of the claims under 35 U.S.C. 112, it is respectfully submitted that the present invention deals with a system for treating patients with bacterial infections and claim 1 defines that the system is specifically designed for treating serious infections and sepsis. In the Examiner's opinion the term "serious" is a relative term. While of course this term is relative when compared to for example "non serious", nevertheless it is believed that this claim is definite. In medical practice for person skilled in the art it is clear which infections are considered as serious, or in other words such infections which create grave medical conditions in a patient, and which infections are not serious. Thus, it is believed that the term "serious" is adequately used in claim 1. However, to be responsive, applicants have amended claim 1 by removing this term.

The Examiner rejected the claims under 35 U.S.C. 102 over the patents to Davankov, et al or Braverman, et al.

In the Examiner's opinion the references disclose a system for removing toxicants from blood comprising passing blood through a material and re-entering the blood to the patient. In view of this in the Examiner's opinion the present invention can not be considered as new. Applicants have respectfully disagreed with this position for the following reasons. First of all neither Davankov nor Braverman first invented removing toxicants from blood by

passing blood through a material and re-entering the blood to the patient. In contrast, the patent cited against the original claims disclose two different and very specific systems for removing toxicants from blood, which include special, new and inventive materials providing the corresponding removal of toxicants.

The present invention is a further improvement of the existing systems for removing toxicants from blood, including further improvements of approaches proposed in the patents to Davankov and Braverman. In accordance with the present invention a system is proposed which treats serious infections and sepsis by passing the blood through a special material including a first group of macroporous particles which are hydrophobic and positively charged, and a second group of mesoporous particles which are hydrophobic and are not charged, wherein the first group of particles is designed to provide adherence of endotoxin, while the particles of the second group are designed to have a pore size selected to provide adherence of cytokines and superantigens to an inner surface of the particles.

Neither Davankov nor Braverman disclose anything remotely resembling the new system disclosed in the present application. The systems disclosed in the references include the use of completely different materials. First of all, the materials disclosed in the patents are homogenous and do not

include two groups of particles designed differently from one another. Secondly, none of the references teaches a system in which two materials designed as explained herein above have been utilized.

It is believed to be clear that the references do not teach the new features of present invention which are defined currently in claim 1, and therefore the anticipatory rejection under 35 U.S.C. 102(b) should be considered as not tenable and should be withdrawn.

It is also respectfully submitted that obviousness rejection can not be considered as applicable here. The references do not disclose any hint or suggestion for the new features of the present invention as defined in claim 1. In order to arrive at the applicant's invention from the references, the references have to be fundamentally modified so as to provide the features which are first proposed by applicants. In particular, the systems of the references have to be fundamentally modified to provide such a system in which two groups of different materials are utilized, and the material of each group is designed in correspondence with the present invention. However, it is known that in order to arrive at a claimed invention, by modifying the references the cited art must itself contain a suggestion for such a modification.

This principle has also been consistently upheld by the U.S. Court of Customs and Patent Appeals which, for example, held in its decision in re Randol and Redford (165 USPQ 586) that

> Prior patents are references only for what they clearly disclose or suggestion; it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

Definitely, the references do not contain any hint or suggestion for such modifications.

As explained in detail in the present application, the present invention provides for highly advantageous results. In particular, it shows a completely new, unobviousness and highly advantageous way to fight infections and sepsis in an efficient way. It is well known that in order to support a valid rejection the art must also suggest that it would accomplish applicant's results. This was stated by the Patent Office Board of Appeals, in the case Ex parte Tanaka, Marushima and Takahashi (174 USPQ 38), as follows:

> Claims are not rejected on the ground that it would be obvious to one of ordinary skill in the art to rewire prior art devices in order to accomplish applicants' result, since there is no suggestion in prior art that such a result could be accomplished by so modifying prior art devices.

In view of the above presented remarks and amendments, it is believed that claim 1, the broadest claim on file, should be considered as patentably distinguishing over the art and should be allowed.

As for the dependent claims, these claims depend on claim 1, they teach additional features, which in combination of claim 1 also constitute novel features which are not disclosed in the prior art and can not be derived from it as a matter of obviousness.

It is therefore believed that all claims currently on file should be considered as patentably distinguishing over the art and should be allowed.

Reconsideration and allowance of present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Any costs involved should be charged to the deposit account of the undersigned (No. 26-0085). Alternatively, should the Examiner feel that a personal discussion might be

helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-243-3818).

Respectfully submitted,

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